STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1293

Accredited Electrical Solutions, LLC,
Respondent,

vs.

PinPoint Homes, LLC,
Appellant,

CCM Finance, LLC, et al.,
Defendants.

Filed April 3, 2023
Affirmed
Connolly, Judge

Ramsey County District Court
File No. 62-CV-20-1231

Ryan R. Dreyer, Scott A. Peitzer, Morrison Sund PLLC, Minnetonka, Minnesota (for respondent)

James H. Anderson, Stern & Anderson P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's findings following a court trial in a contract and mechanic's lien dispute, arguing that the district court clearly erred by finding that (1) respondent was entitled to $4,242.52 for electrical work it performed for appellant and (2)

appellant was not entitled to prelien notice. Because the evidence presented at trial supports the district court's findings, we affirm.

FACTS

Respondent Accredited Electrical Solutions, LLC sued appellant Pinpoint Homes, LLC after not receiving payment for electrical work that it performed on a single-family residential structure owned by appellant and located on Warwick Street in St. Paul, Minnesota ("the Warwick project"). The Warwick project was one of about ten projects that respondent worked on for appellant. Respondent's initial estimate for the electrical work for the Warwick project was $16,427.83.

Appellant contracted respondent to perform electrical work at the Warwick project. Appellant's employee, DJ, was respondent's point of contact for the project, except for scheduling and invoicing. DJ created the budget for and approved the scope of respondent's work, had the authority to approve respondent's work, had the authority to choose which vendors to hire, and paid respondent. Day Construction LLC, a home remodeling company, coordinated with respondent to schedule the work and collected invoices to submit to appellant.

Respondent worked on the Warwick project from April 22 to May 7, 2019, stopping before the project was complete because invoices on the other projects were overdue, it was not getting answers from appellant, and it learned that appellant no longer employed DJ or Day Construction. On May 10, 2019, respondent invoiced appellant $8,213.95 for its initial work on the Warwick project, and appellant paid the amount in full.

In July 2019, respondent invoiced appellant for the remaining $4,242.52 owed for its work on the Warwick project. Appellant did not pay respondent, and appellant's manager asserted that respondent did not perform the work identified in the invoice and that appellant had to hire other contractors to complete the work. A contractor who appellant hired to replace Day Construction testified that when he arrived on the project "the exterior was finished except for the garage. And then the interior of the house was finished to sheetrock," and the electrical work "was roughed-in, wires in the wall." He also testified that there were items on the invoice that had not been completed.

Respondent's owner testified that the items on the invoice did not necessarily represent what he was asking to get paid for and stated that the invoice showed the correct amount due:

> Q: And so Trial Exhibit 8, which shows the final invoice for the roughly $4200 that is at issue in this case, this scope of work is listed there is not necessarily a representation of what you're asking to get paid in the invoice?
> A: Correct.
>
> Q: What's important on the invoice here, Trial Exhibit 8, is the number?
> A: Correct.
>
> Q: And you, Matt McGill, went through your system and made sure that Accredited Electric was actually owed this $4200, correct?
> A: Between my wife and I, yes. We put our heads together and come up with that number, where we're at with this thing at this point now.

Without sending appellant a pre-lien notice, respondent filed and served its mechanic's lien statement on July 30, 2019, and recorded the statement on August 9, 2019.

On February 20, 2020, respondent sued appellant for breach of contract, unjust enrichment, and enforcement of its mechanic's lien. Appellant denied the allegations and asserted that respondent was not entitled to its mechanic's lien because it had failed to give pre-lien notice.[1]

The parties tried the case to the district court. The district court found that appellant breached its contract, and that respondent was entitled to $4,242.52 because appellant had not paid respondent for the work identified in the July 2019 invoice. It also determined that respondent was not required to provide pre-lien notice to appellant because "[appellant] was both the 'contractor' and the 'owner' of the [Warwick property] for purposes of the pre-lien notice." The district court foreclosed respondent's mechanic's lien and ordered that the Warwick property be sold.

In April 2022, appellant moved for amended findings of fact and for a new trial. The district court denied appellant's motion.

This appeal follows.

DECISION

I. The district court did not clearly err when it determined that respondent completed electrical work valued at $4,242.52.

This court reviews a district court's findings of fact for clear error. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). We view the evidence in the light most favorable to the verdict and "we examine the record to see if there is reasonable

[1] Appellant also filed a third-party claim against Day Construction. Day Construction did not take part in this appeal.

evidence in the record to support the court's findings." *Id.* (quotation omitted). The district court's factual findings are clearly erroneous if "we are left with the definite and firm conviction that a mistake has been made." *In re Stisser Grantor Tr.*, 818 N.W.2d 495, 507 (Minn. 2012) (quotation omitted). If there is reasonable evidence to support the district court's findings, we will not disturb them. *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999). We will "neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the factfinder." *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004).

Here, the district court found that appellant had not paid respondent for the electrical work that it had completed, and that respondent was therefore entitled to a judgment of $4,242.52. Appellant argues that respondent sent it an inaccurate invoice that set forth certain labor and materials that it did not actually furnish. Appellant relies on the testimony of respondent's owner, a new contractor, and its own manager that respondent did not complete all of the items on the 2019 invoice.

But we will not "reconcile conflicting evidence" nor will we "decide issues of witness credibility" and review of the record reveals that there is evidence that supports the district court's findings of fact. *Gada*, 684 N.W.2d at 514. At trial, respondent's owner acknowledged that the scope of the work listed on the invoice did not necessarily represent what he was asking to get paid for but confirmed that $4,242.52 was the amount due:

> Q: And you, Matt McGill, went through your system and made sure that Accredited Electric was actually owed this $4200, correct?

> A: Between my wife and I, yes. We put our heads together and come up with that number, where we're at with this thing at this point now.

Moreover, the invoice itself states that appellant owed respondent $4,242.52 for the electrical work that respondent performed on the Warwick project. Thus, there is reasonable evidence to support the district court's findings of fact. *See Fletcher*, 589 N.W.2d at 101. Because the district court's findings are not clearly erroneous, we affirm the district court's determination that respondent was entitled to judgment of $4,242.52.

II. The district court did not clearly err when it determined that respondent was not required to provide appellant with a pre-lien notice.

Whoever "contributes to the improvement of real estate by performing labor, or furnishing skill, material or machinery . . . shall have a lien upon the improvement, and upon the land on which it is situated." Minn. Stat. § 514.01 (2022). To be entitled to a mechanic's lien, generally a subcontractor must provide the property owner with a written notice that advises the property owner of the subcontractor's statutory right to file a lien against the property if the payment is not made. Minn. Stat. § 514.011, subd. 2(a) (2022). The failure to give pre-lien notice generally defeats a mechanic's lien. *Merle's Constr. Co. v. Berg*, 442 N.W.2d 300, 302 (Minn. 1989).

There are exceptions to this pre-lien notice requirement. *Ryan Contracting Co. v. O'Neill & Murphy, LLP*, 883 N.W.2d 236, 243 (Minn. 2016). Relevant to this case, pre-lien notice is not required "where the contractor is managed or controlled by substantially the same persons who manage or control the owner of the improved real estate." Minn. Stat. § 514.011, subd. 4a (2022). This exception applies to cases in which "the owner is

not unsuspecting" because the mechanic's lien statute seeks "to remedy the unfairness arising from the foreclosure of mechanics liens on property of unsuspecting owners." *Nor-Son, Inc. v. Nordell*, 369 N.W.2d 575, 578 (Minn. App. 1985) (quotation omitted), *rev. denied* (Minn. Sept. 13, 1985). Whether an owner acted as its own contractor is a question of fact that we review for clear error. *Nw. Wholesale Lumber, Inc. v. Citadel Co.*, 415 N.W.2d 399, 404 (Minn. App. 1987), *rev. denied* (Minn. Feb. 12, 1988).

A contractor is generally "a party who undertakes to make specific improvements under a contract with an owner." *Pelletier Corp. v. Chas. M. Freidheim Co.*, 383 N.W.2d 318, 322 (Minn. App. 1986). In *Pelletier*, this court concluded that an owner was acting as a contractor where it entered into different contracts that were necessary to complete the job, supervised and controlled the work site, and applied for permits. *Id.* at 321-22.

Here, the district court concluded that respondent was not required to provide pre-lien notice because respondent "was both the 'contractor' and the 'owner' of the [property] for purposes of the pre-lien notice." Appellant contends Day Construction was the contractor for the Warwick project because Day Construction applied for the building permits, worked with appellant to create the project's budget, reviewed and approved invoices, and received a management fee.

We disagree. It is not our place to reweigh the evidence. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). We view the evidence in the light most favorable to the verdict and "examine the record to see if there is reasonable evidence in the record to support the [district] court's findings," and the record provides adequate support for the district court's findings. *Rasmussen*, 832 N.W.2d at 797 (quotation omitted). The record

supports the district court's finding that appellant, not Day Construction, had the authority to select which subcontractors to hire. Similar to the owner in *Pelletier*, appellant contracted with respondent to work on the Warwick project, and respondent's primary point of contact for the project was one of appellant's employees. Even though the invoices were billed to Day Construction, appellant paid respondent directly. The Warwick project was one of many construction projects that appellant hired respondent to work on; indeed, appellant was not an "unsuspecting owner." *See Nor-Son, Inc.*, 369 N.W.2d at 578. Therefore, the district court's findings were not clearly erroneous, and we affirm the district court's determination that respondent was not required to provide pre-lien notice.

Affirmed.